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Attorneys for Defendants

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., a Colorado corporation;
ORACLE AMERICA, INC., a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Plaintiffs,

v.

RIMINI STREET, INC., a Nevada corporation;
SETH RAVIN, an individual,

Defendants.

Case No. 2:10-cv-0106-LRH-PAL

**DEFENDANTS' UNOPPOSED
MOTION FOR LEAVE TO FILE AN
AMENDED TRIAL WITNESS LIST**

1 In accordance with Federal Rule of Civil Procedure 16 and the D. Nev. L.R. 16–3(d),
2 Defendants Rimini Street, Inc. and Seth Ravin (“Rimini”) respectfully submits this motion for leave
3 to file an amended trial witness to add two witnesses left off of Rimini’s preliminary list due to an
4 oversight. Having conferred, Plaintiffs Oracle USA, Inc., Oracle America, Inc., and Oracle
5 International Corp. (“Oracle”) does not oppose this motion.

6 Under Rule 16, the Court has authority to modify the Pretrial Order at the Court’s discretion.
7 Fed. R. Civ. P. 16(e). For the Court to exercise its discretion, the following factors may be
8 considered: (1) the degree of prejudice or surprise to the [non-moving party] if the order is modified;
9 (2) the ability of the [non-moving party] to cure any prejudice; (3) the impact of the modification on
10 the orderly and efficient conduct of the case: and (4) any degree of willfulness or bad faith on the
11 part of [the party seeking the modification]. *Fuoroli v. Westgate Planet Hollywood Las Vegas, LLC*,
12 No. 137 Case No. 2:10-cv-02191-JCM-GWF (D. Nev. Feb. 7, 2014) (citing *United States v. First*
13 *Nat. Bank of Circle*, 652 F.2d 882, 887 (9th Cir. 1981).

14 With regard to the first two factors, Oracle will not be prejudiced or surprised by modifying
15 the Pretrial Order to amend Rimini’s preliminary witness list. Oracle took the depositions of both
16 proposed witnesses during discovery in this matter, and one of these witnesses, Mr. Davichick, is
17 listed on Oracle’s witness and deposition designation lists. As a result, no further discovery will be
18 necessary if the Pretrial Order is modified to include these witnesses. Further, the trial is scheduled
19 to begin September 14, 2015. Finally, in meet and confer between the parties, Oracle agreed it
20 would not oppose the present motion.

21 With regard to the third factor, the Court’s pretrial and trial schedule, and the orderly and
22 efficient conduct of the case, will not be impacted by modification of the pretrial order because the
23 addition of these witnesses will not result in additional discovery or delay to the Court’s pretrial and
24 trial schedule, nor will the Court have to consider an opposition to this motion or conduct a hearing.

25 With regard to the fourth factor, Rimini does not seek to modify the Pretrial Order in bad
26 faith, nor were the omissions of witnesses willful. Rimini’s current trial witness list is composed of
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1 those witnesses Rimini believes it may call at trial. Rimini's filing of this motion nearly six months
2 before trial supports its good faith efforts.

3 **Conclusion**

4 For the reasons set forth herein and good cause shown, Rimini respectfully requests that the
5 Court grant this unopposed motion for leave to allow Rimini to file an amended witness list. A
6 proposed order accompanies this motion.

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10 DATED: March 13, 2015

SHOOK, HARDY & BACON

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12 By: /s/ Robert H. Reckers
13 Robert H. Reckers, Esq.
14 Attorney for Defendants
15 Rimini Street, Inc. and Seth Ravin
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing UNOPPOSED MOTION FOR LEAVE TO FILE AN AMENDED TRIAL WITNESS LIST was filed, on March 13, 2015, with the Court's CM/ECF system which will send notice, via email, to registered attorneys as indicated below.

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